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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Request for Waiver by

Glover Elementary School

Broken Bow, Oklahoma

Federal-State Joint Board on

Universal Service

Changes to the Board of Directors of the

National Exchange Carrier Associations, Inc.

ORDER

Adopted: January 29, 2003

Released: January 30, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Glover Elementary School (Glover), Broken Bow, Oklahoma, seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.¹ Specifically, Glover requests a waiver of the filing deadline for Funding Year 2001 because of delays arising from the acts or omissions of an employee.² For the reasons set forth below, we deny Glover's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470.⁴ Once the applicant has complied with the Commission's competitive bidding requirements

¹ Letter from Jon Tuck, Clover Elementary School, to Federal Communications Commission, filed January 18, 2002 (Waiver Request).

See Waiver Request, Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission, 47 C.F.R. § 54.719(c). In prior years, Funding Year 2001 was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 2001 and ended on June 30, 2002, previously known as Funding Year 4, is now called Funding Year 2001. The funding period that began on July 1, 2002 and ends on June 30, 2003 is now known as Funding Year 2001, and so on.

47 C.F.R. §§ 54.501-54.503.

47 C.F.R. § 54.504(b).

and entered into an agreement for eligible services, it must submit a completed FCC Form 471 application to the Administrator.⁵ The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁶ The last day of the filing window for Funding Year 2001 was January 18, 2001 and, unlike previous years, for Funding Year 2001 all paper components of electronically filed applications had to be postmarked by that date.⁷

3 Glover electronically filed the main portion of the FCC Form 471 on January 17, 2001.⁸ However, Glover sent its Block 6 certification page and Item 21 attachments on January 20, 2001.⁹ Because those items were postmarked after the filing window closed, Glover's entire application fell outside the filing window. Glover states that this occurred because the person responsible for filing the application failed to file it on time, unbeknownst to the superintendent and other school staff.¹⁰ Glover notes that the school would have difficulty meeting the need for resources without the requested discounts from the schools and libraries universal service mechanism. Thus, Glover requests waiver of the deadline.¹¹

4. Glover's Waiver Request can be granted only if waiving the deadline is supported by a showing of good cause.¹² A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.¹³ Because SLD must review and process thousands of applications each year, it is administratively necessary to place on the applicant responsibility for complying with the program's rules and procedures.¹⁴ Timely submissions are needed because, under the funding mechanism, all requests for discounts received within the initial filing deadline must be analyzed together in order to properly allocate funds.¹⁵

5. We have traditionally held applicants to a high standard for waivers, noting that ultimately it is the applicant who has responsibility for the timely submission of its application if

47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. §§ 54.504(c), 54.507(g).

⁷ SLD website, FCC Form 471 Window Opens for Year 4 Applicants; New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sld.universalservice.org/whatsnew/112000.asp#110200>>.

⁸ FCC Form 471, Glover Elementary School, filed January 29, 2001 (Glover Form 471).

⁹ *Id.* (postmark date on envelope containing certification and attachments). We note that Glover's Waiver Request incorrectly states that the material was mailed on January 23, 2001, but that is the date that the material was received by SLD. See Waiver Request; Glover Form 471 (bar code on certification page showing January 23, 2001 as date received).

¹⁰ Waiver Request.

¹¹ *Id.*

¹² See 47 C.F.R. § 1.3.

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

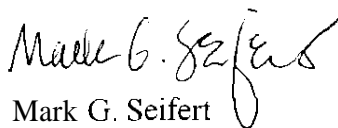
¹⁴ See *Request for Review by Anderson School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, para. 8 (Conn. Cir. Bur. 2000).

¹⁵ See 47 C.F.R. § 54.507(g).

the applicant wishes to be considered with other in-window applicants.¹⁶ How the applicant delegates responsibility for the applications is not relevant to our analysis. We have held that employee error does not relieve applicants of their responsibility to understand and comply with the program's rules and procedures.¹⁷ The circumstances described by Glover do not constitute special circumstances for purposes of our waiver standard. Therefore, we conclude that Glover has not demonstrated the existence of any special circumstances warranting a deviation from our rules, and we deny its Waiver Request.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Glover Elementary School, Broken Bow, Oklahoma, on January 18, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert

Deputy Chief, Telecommunications Access Policy
Division Wireline Competition Bureau

¹⁶ See *Request for Review by Dermott Special School District, Hoven School District No. 53-2, Mastics-Moriches-Shirley Community Library, Mounds Public Schools, Reading-Muhlenberg Area Vocational-Technical School, Versailles Exempted Village Schools, Westbrook School Department, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the Notional Exchange Carrier Association, Inc.*, File Nos. SLD-252777, SLD-261808, SLD-277850, SLD-265880, SLD-257325, SLD-270374, SLD-220712, CC Docket Nos. 96-45 and 97-21, Order, DA 02-643 (Coin. Car. Bur. rel. March 19, 2001).

¹⁷ *Id.* at para. 4.